

February 13, 2002

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

POTENTIAL FOR LEGISLATIVE RELIEF FROM AB 1387 - WORKERS' COMPENSATION

This memo is in response to the Board action of January 29, 2002 requesting the Chief Administrative Office to seek potential legislative relief from increased industrial accident costs in the Probation Department related to the passage of AB 1387 which became law on January 1, 2000.

AB 1387 incorporated specified employees of the Probation Department into Section 4850 of the Labor Code, thus increasing the disability benefit from 70 percent to 100 percent of salary tax free during the first twelve months of each injury.

Our Sacramento advocates have discussed repeal of AB 1387 with consultants to the Senate Labor and Industrial Relations Committee, the Assembly Insurance Committee, the Senate and Assembly Appropriations Committees, and the Senate and Assembly Republican Caucus. In each case, they were advised that there was no legislative interest or little likelihood that AB 1387 will be repealed. They received a similar response on the possibility of funding for the department in the FY 2002-2003 Budget bill, especially in light of the growing State fiscal shortfall. Our Interim Chief Legislative Advocate, Steve Zehner, provided a briefing on this subject to the Legislative Working Group on Tuesday, February 12, 2002.

Since direct legislative relief is not a realistic expectation, in order to attempt to offset part, or all, of the impact of AB 1387, our Sacramento advocates will continue to seek cost saving reforms of the workers' compensation system. We will recommend positions on legislation based on Board adopted-policies to:

- . Support legislation that would include appropriate reforms to ensure an efficient, equitable and cost-effective workers' compensation system while providing reasonable benefits levels.
- . Oppose legislation that creates new presumptions by mandating that certain injuries, illnesses, diseases, or physical conditions are job-related for workers' compensation or service-connected disability retirement purposes.
- . Oppose legislation that mandates eligibility of additional employees for safety workers' compensation benefits or safety retirement benefit provisions of current law.
- . Oppose legislation that mandates or authorizes compensation or benefit changes without approval of the Board.

Based on these policies, our Sacramento advocates are pursuing the following active bills:

County-opposed AB 507 (Havice), which would mandate inclusion of all full-time custody assistants employed by Los Angeles County in the list of employees who are entitled to safety member workers' compensation benefits. AB 507 is currently in the Senate Committee on Labor and Industrial Relations with no hearing date set.

County-opposed AB 749 (Calderon), which would provide for major benefit increases for workers' compensation, but does not contain sufficient reforms to offset the cost of those increases, and will increase County's cost of providing workers' compensation benefits by 22% or \$55 million per year. AB 749 is currently on the Governor's Desk.

County-supported AB 1808 (Richman), which would require special training and state certification by January 1, 2005, for every physician that provides treatment and evaluation on workers' compensation cases. AB 1808 would also require re-certification every two years and require the State to develop physician utilization management, quality of care, and outcome measurement data related to the treatment of workers' compensation cases. AB 1808 is currently in the Assembly Committee on Insurance.

County-supported AB 1809 (Richman), which would require use of an Official Workers' Compensation Fee Schedule for all treatment provided on workers' compensation cases, regardless of when the expenses are determined to be eligible for compensation. In addition, a schedule of maximum fees for outpatient treatment and surgery would be added to the Official Fee Schedule by January 1, 2004. AB 1809 is currently in the Assembly Committee on Insurance.

Each Supervisor
February 13, 2002
Page 3

County-opposed SB 1156 (Burton), which would increase workers' compensation benefits by changing the weekly wage to determine temporary total benefits and increase the present weekly temporary and total disability benefit, which will cost the County approximately \$68.5 million per year. SB 1156 is currently in the Assembly Committee on Insurance.

County-opposed AB 1847 (Correa), which would provide a presumption to peace officers that exposure to a bio-chemical substance arose in the course of employment and that, therefore, they are eligible for a disability retirement. AB 1897 is in the Assembly Committee on Public Employees, Retirement and Social Security.

DEJ:GK
ML:DdN:md

c: County Counsel
Executive Office
Human Resources
Probation Department